

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, NOVEMBER 25, 2003

SESSION OF 2003 187TH OF THE GENERAL ASSEMBLY

No. 77

SENATE

TUESDAY, November 25, 2003

The Senate met at 11:30 a.m., Eastern Standard Time.

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the Chair.

PRAYER

The Chaplain, Reverend Dr. BRYAN REYNOLDS, of Cornerstone Fellowship Christian Church, New Florence, offered the following prayer:

Let us pray.

God of our fathers, America and the Commonwealth of Pennsylvania have suffered a moral upset. In this present information age, right has become wrong and wrong has become right. We have deviated from the path of wisdom and sold our birthright to those espousing more relativism. President Lincoln warned us that the enemy would come amongst us, sowing his divisive seed in the hope that the patriotic heart of Pennsylvania had died.

Rekindle in us the flame of knowledge and the fire of Your Holy Spirit that guides us into all wisdom. Let those hallowed words ring their echoes in this Chamber today - duty, honor, country. Bring to our minds the very fundamentals, and proclaim liberty throughout the land unto all the inhabitants thereof.

Freedom cannot coexist with anarchy, just as goodness strives against evil. Deliver us, O Lord, from our Armageddon. We recall the covenant You made with us in Philadelphia and the miracles You performed during our struggle for independence from an earthly king. We trust You as the reigning Sovereign of this great experiment called America. Let us be ever mindful that vigilance is the price of safety, and the showers of blessing fall on those who live by their faith, as well as those who do not. Make clear to us the compelling moral right in our decisionmaking, and daily renew our courage to perform that duty, no matter what the cost is to us personally.

We confess as a people that we have failed to do what is morally right in the past and beg Your forgiveness today. You make kings and kingdoms, as well as vessels of honor and dishonor. You have appointed each man and woman present here today for such a time as this, in all dignity and respect. We stand with those You have placed in positions of authority, according to Your word. Teach us to serve with honor and great diligence, according to the greatest command, which is love our neighbors as ourselves.

We thank You for the protection, provision, and many blessings You have shared upon Pennsylvania and these United States. Watch over our soldiers, sailors, and airmen and their families at home and abroad. Establish jobs for those who are unemployed, and place merciful people in the paths of the homeless. Let the people of this great land be united as one nation under God. Amen.

The PRESIDENT. The Chair thanks Dr. Reynolds for that magnificent prayer. He is the guest today of Senator Don White.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

JOURNAL APPROVED

The PRESIDENT. A quorum of the Senate being present, the Clerk will read the Journal of the preceding Session of November 24, 2003.

The Clerk proceeded to read the Journal of the preceding Session, when, on motion of Senator BRIGHTBILL, and agreed to by voice vote, further reading was dispensed with and the Journal was approved.

COMMUNICATION FROM THE GOVERNOR

**RECALL COMMUNICATION
LAID ON THE TABLE**

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows and laid on the table:

**MEMBER OF THE COMMONWEALTH OF
PENNSYLVANIA COUNCIL ON THE ARTS**

November 25, 2003

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 9, 2003, for the appointment of Lillian Gaskins-Green, 1327 Betsy Ross Place, Philadelphia 19122, Philadelphia County, First Senatorial District, as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 2006, and until her successor is appointed and qualified, vice Marian Barford, Doylestown, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

HOUSE MESSAGES**HOUSE CONCURS IN SENATE
CONCURRENT RESOLUTION**

The Clerk of the House of Representatives informed the Senate that the House has concurred in the resolution from the Senate, entitled:

Recess adjournment.

HOUSE BILLS FOR CONCURRENCE

The Clerk of the House of Representatives presented to the Senate the following bills for concurrence, which were referred to the committees indicated:

November 25, 2003

HB 445 -- Committee on Consumer Protection and Professional Licensure.

HB 856 and 1618 -- Committee on Education.

HB 1211 -- Committee on Public Health and Welfare.

HB 1654 -- Committee on Local Government.

HB 2083 -- Committee on Judiciary.

LEGISLATIVE LEAVES

The PRESIDENT. The Chair recognizes the gentleman from Lackawanna, Senator Mellow.

Senator MELLOW. Madam President, I request legislative leaves for Senator Schwartz, Senator Stout, and Senator Tartaglione.

The PRESIDENT. Senator Mellow requests legislative leaves for Senator Schwartz, Senator Stout, and Senator Tartaglione. Without objection, the leaves will be granted.

LEAVE OF ABSENCE

Senator PIPPY remains on military leave pursuant to Senate Rule XXI(3).

HOUSE MESSAGE**HOUSE CONCURS IN SENATE AMENDMENTS
BY AMENDING SAID AMENDMENTS
TO HOUSE BILL**

The Clerk of the House of Representatives informed the Senate that the House has concurred in amendments made by the Senate by amending said amendments to **HB 888**, in which concurrence of the Senate is requested.

MOTION TO SUSPEND RULE XIV

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I move to suspend Rule XIV to the extent that it requires that House Bill No. 888 be referred to the Committee on Rules and Executive Nominations and that House Bill No. 888 be placed on the Calendar.

The PRESIDENT. Senator Brightbill moves that we suspend Senate Rule XIV so that House Bill No. 888 appear immediately on the Calendar.

On the question,
Will the Senate agree to the motion?

The yeas and nays were required by Senator BRIGHTBILL and were as follows, viz:

YEA-49

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Kukovich	Rafferty	White, Donald
Costa	LaValle	Rhoades	White, Mary Jo
Dent	Lemmond	Robbins	Williams, Anthony H.
Earll	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Schwartz	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fumo	Mowery	Stout	
Gordner	Musto	Tartaglione	
Greenleaf	O'Pake	Thompson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. House Bill No. 888 will appear on the Calendar.

**SPECIAL ORDER OF BUSINESS
GUESTS OF SENATOR DONALD C. WHITE
PRESENTED TO THE SENATE**

The PRESIDENT. The Chair recognizes the gentleman from Indiana, Senator Don White.

Senator D. WHITE. Madam President, today I would like to welcome Bernadette Reynolds, the wife of our guest Chaplain today. Dr. and Mrs. Reynolds have been very generous with their time to come to Harrisburg and offer an opening prayer for our Session, so I ask the Senate to extend its usual warm welcome.

Thank you very much, Madam President.

The PRESIDENT. Will Bernadette and Dr. Reynolds stand so we can give you a round of applause.

(Applause.)

**GUESTS OF SENATOR SHIRLEY M.
KITCHEN PRESENTED TO THE SENATE**

The PRESIDENT. Today, the gentlewoman from Philadelphia, Senator Kitchen, has invited Mr. Sam Evans to be her guest in the Senate, and I ask her to introduce our guest from Philadelphia.

Senator KITCHEN. Madam President, it is an honor to introduce Mr. Samuel L. Evans, the oldest active Democrat in the country. On November 11, Mr. Evans celebrated his 101st birthday. He is with Commissioner Ethel Barnett, and at this time, I request that the Clerk read the citation that we are presenting to Mr. Evans, and he will reply with a thank you.

The PRESIDENT. The Clerk will read the citation.
(The Clerk proceeded to read.)

Whereas, Samuel L. Evans of Philadelphia celebrated his one hundred first birthday on November 11, 2003; and

Whereas, Mr. Evans, who has been credited as being the oldest active Democrat in this nation, has also made significant contributions through his work as a producer of classical music at the Academy of Music and through his management position with the Philadelphia Orchestra. To his great credit, he was appointed by former President Franklin Delano Roosevelt as Coordinator of the United States Division of Physical Fitness to aid the War Effort in 1940, and he was selected as a member of the Columbia University World Study Tour in 1948. A prominent figure in the civil rights movement, he was appointed by former President Lyndon B. Johnson as Czar of the War on Poverty. Mr. Evans is perhaps most notably known as the founder of the American Foundation for Negro Affairs, the organization which was selected in 1991 by the United States Department of Health and Human Services as a role model for the nation. He is a member of the New York University Frontiers of Knowledge Study in Integrated Concepts, Science, Philosophy and Education, and in 1970, Mr. Evans was appointed as Executive Vice President of the Bicentennial Corporation, where he spearheaded the efforts to organize the celebration of this nation's two hundredth anniversary. He is also well-known as the author of the poem, "Requiem for Ten Million Slaves," which is a short work calling for a memorial to all those who lost their lives to slavery. The poem was set to music by Philadelphia composer Donald Diller and performed by the Morgan State University Choir; and

Whereas, Through his participation in the Democratic process and the many leadership roles he has held, Mr. Evans has exercised and put to positive use the freedom given to all citizens of this nation, and in doing so, he has proved himself to be a role model worthy of emulation;

Now therefore, the Senate of the Commonwealth of Pennsylvania heartily congratulates Samuel L. Evans on his one hundred-first birthday; wishes him the best of health and further appreciation from all who have come to know and thus respect and admire him;

And directs that a copy of this document, sponsored by Senator Shirley M. Kitchen, be transmitted to Samuel L. Evans.

(Applause.)

The PRESIDENT. The Chair recognizes the gentleman, Mr. Samuel L. Evans.

Mr. EVANS. Madam President, Members of the Senate of the Commonwealth of Pennsylvania, just to be here today surrounded by you, the givers of law and the makers of law, is in itself an honor and I grant it as a privilege, but to be here today surrounded, sitting here today, is in itself a distinction, for it fills my living and being all 101 years. I accept this honor with my highest appreciation, and wish for you the blessings that only heaven can give.

Thank you.

(Applause.)

The PRESIDENT. I want to take a couple of minutes to introduce the guests of Senator Kitchen who are with Sam. Most of you know Ethel Barnett. She was chairwoman of the State Civil Service Commission for many years. Also, Betty M. Thompson, William Jones, and Earl Venson are here. Thank you so much for bringing Sam here today.

(Applause.)

The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I was very touched to see Mr. Evans, and I would note for the Members that when Mr. Evans was born, we were closer in time to the Civil War than we are today to World War II. It really shows how quickly things

have changed in terms of our society, but, in fact, when Mr. Evans was born, this Capitol, this building that we are in now was under construction, I believe, and certainly had not as yet been dedicated. So he certainly would have more than one lifetime of great experiences that he could share with people.

The other point I would make for Mr. Evans is that we are happy to get him a registration card so he can spend the next 100 years as a Republican.

(Laughter.)

The PRESIDENT. I would like to add to that, Senator. I have known Mr. Evans for many, many years, and his memory is remarkable. He can tell you something about every single president since Franklin Delano Roosevelt, and he knew each one of them personally. I think that is a great achievement, because not many of us can ever make a comment or statement like that, so we are blessed to have him, plus all the work that he has done for the youth in Philadelphia. I have watched him work, and I have known him for 33 years, since 1970, so we are all honored that he took the time to come here today to greet us. We have much to be thankful for.

Thank you.

The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, Sam Evans is a living legend, and he proves that if you live a lifetime in the political arena, you can live forever, and we are glad to see Sam here. He has done so much for his community, for the city of Philadelphia, and for everyone who came to him for help. We appreciate what he has done, and we wish him many more years being involved in good government and making sure that the right people are elected in the city of Philadelphia and here in Pennsylvania. One hundred and one years; amazing. I hope that his mental alertness and interest in his community will continue for many, many more years in the future.

God bless you, Sam.

(Applause.)

BILLS INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Bills numbered, entitled, and referred as follows, which were read by the Clerk:

November 25, 2003

Senators WENGER, BRIGHTBILL and ARMSTRONG presented to the Chair **SB 966**, entitled:

An Act designating a portion of State Route 23 in Lancaster County as the Representative Leroy M. Zimmerman Memorial Highway.

Which was committed to the Committee on TRANSPORTATION, November 25, 2003.

Senators LOGAN, KUKOVICH, KITCHEN, STOUT, MUSTO, WAGNER, ORIE, O'PAKE, D. WHITE, COSTA, STACK, BOSCOLA, DENT, C. WILLIAMS, TARTAGLIONE, GREENLEAF, SCHWARTZ, LAVALLE and FERLO presented to the Chair **SB 967**, entitled:

An Act amending the act of March 20, 2003 (P.L. , No.1A), known as the General Appropriation Act of 2003, further providing for appropriations to the Department of Education.

Which was committed to the Committee on APPROPRIATIONS, November 25, 2003.

Senators A. WILLIAMS, WAGNER, ORIE, KUKOVICH, STOUT, TARTAGLIONE, LOGAN, FERLO, BOSCOLA, MUSTO, M. WHITE, STACK, ERICKSON and COSTA presented to the Chair **SB 968**, entitled:

An Act making an appropriation to the Department of Public Welfare for low-income home energy assistance.

Which was committed to the Committee on APPROPRIATIONS, November 25, 2003.

RESOLUTION INTRODUCED AND REFERRED

The PRESIDENT laid before the Senate the following Senate Resolution numbered, entitled, and referred as follows, which was read by the Clerk:

November 25, 2003

Senators SCARNATI, TARTAGLIONE, CORMAN, CONTI, COSTA, KUKOVICH, D. WHITE, ERICKSON, M. WHITE, RAFFERTY, MOWERY, STACK, BOSCOLA, ROBBINS, RHOADES, FERLO and KASUNIC presented to the Chair **SR 184**, entitled:

A Concurrent Resolution urging the Congress of the United States to place a moratorium on new free trade agreements, to investigate and review current free trade agreements and policies of the United States, to investigate and review participation of the United States with international trade organizations and to ensure that such agreements, policies and participation are in the best interests of the citizens of the Commonwealth of Pennsylvania and the United States.

Which was committed to the Committee on LABOR AND INDUSTRY, November 25, 2003.

BILLS REPORTED FROM COMMITTEES

Senator MOWERY, from the Committee on Public Health and Welfare, reported the following bill:

HB 999 (Pr. No. 1172)

An Act establishing the Reflex Sympathetic Dystrophy Syndrome Education Program; and providing for powers and duties of the Department of Health.

Senator ERICKSON, from the Committee on Local Government, reported the following bills:

SB 876 (Pr. No. 1098)

An Act amending the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code, further providing for real property.

SB 970 (Pr. No. 1295) (Amended)

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, providing for revival of an expired authority.

HB 1785 (Pr. No. 3018) (Amended)

An Act amending Title 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes, further providing for the governing body of the authorities.

RESOLUTION REPORTED FROM COMMITTEE

Senator ERICKSON, from the Committee on Local Government, reported the following resolution:

SR 171 (Pr. No. 1296) (Amended)

A Resolution directing the Legislative Budget and Finance Committee to conduct a study of certain issues relating to the civil service system in county government and the ability of counties to attract and employ a qualified work force to meet their business needs.

The PRESIDENT. The resolution will be placed on the Calendar.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 1

SENATE CONCURS IN HOUSE AMENDMENTS TO SENATE AMENDMENTS

HB 888 (Pr. No. 2919) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, further providing for definitions, for program generally, for generic drugs, for restricted formulary, for reimbursement, for nonliability, for the Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier, for the Pharmaceutical Assistance Review Board; providing for pharmacy best practices and cost controls; further providing for penalties, for the Prescription Drug Education Program, for terms of rebate agreement and for amount of rebate; providing for a Pharmaceutical Assistance Clearinghouse; further providing for annual report to General Assembly; and providing for construction with Federal programs and for continued use of Tobacco Settlement Fund.

On the question,

Will the Senate concur in the amendments made by the House to Senate amendments to House Bill No. 888?

Senator BRIGHTBILL. Madam President, I move that the Senate do concur in the amendments made by the House to Senate amendments to House Bill No. 888.

On the question,

Will the Senate agree to the motion?

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Madam President, very briefly, much has been said about this bill already. I do not intend to belabor the point, but over the decades we have cast many very important votes on the Senate floor. This ranks right up there. This allows us to fulfill the promise to provide prescription drugs to 100,000 more senior citizens in Pennsylvania. Now, how did we get here? It took a lot of bipartisan cooperation, it took the leadership of Governor Rendell, it took the lobbying of thousands and thousands of senior citizens in Pennsylvania, and I think it is very appropriate as we break for the Thanksgiving recess that we say thanks to our senior citizens and extend prescription drug coverage to 100,000 more.

This will allow income limits for PACE to increase to \$14,500 a year for an individual and \$17,700 a year for a couple. This is a significant increase for PACENET eligibility, as the limits will now go to \$23,500 for individuals and \$31,500 a year for couples. This begins on January 1, and there may be some confusion because the Medicare amendments that just passed the U.S. Senate and probably will be signed into law do not take effect until the year 2006. This will allow immediate relief for about 100,000 more senior citizens in Pennsylvania, senior citizens who have lost their PACE eligibility or their PACENET eligibility because of slight increases in Social Security cost of living. It is the right thing to do, it is the humane thing to do, it is the compassionate thing to do, and I commend everyone here who had a part in that effort, especially the Governor, who made it all come together.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Madam President, I rise to offer my support for House Bill No. Bill 888. I supported previous increases in PACE and PACENET eligibility, and I am very proud to do so again today.

Today is a landmark day for our older residents. The action we will be taking in just a few minutes in this Chamber will provide true relief for many families. Prescription drug costs continue to rise at a rate unmatched by increases in a family's income. In fact, those increases are especially difficult for older residents who live on fixed incomes. As has been noted so often, the system actually worked against itself, as the modest cost-of-living adjustments in Social Security benefits pushed some senior citizens over the current PACE and PACENET income limits. That meant that the few extra dollars they received in their Social Security checks were eaten up by prescription drug costs. PACE participation, which reached nearly 500,000 in the late 1980s, has since fallen by more than half to about 224,000 this year.

As I noted before, today is a landmark occasion because our actions here are matched by similar events in Washington. Just moments ago, just a few hours ago, the U.S. Senate passed legislation. Pennsylvania's older residents are indeed fortunate to have access to the best State-operated prescription drug program in the nation, and now Congress has acted to provide similar assistance to all older Americans. The U.S. Senate's passage today of the Medicare Prescription Improvement and Modernization Act fulfills the commitment made by both political parties to bring needed prescription drug assistance to

our senior citizens. I strongly support and applaud this new Federal prescription drug program. The new Federal program will not penalize Pennsylvania with a maintenance of effort provision, such as we faced with CHIP. That means the Commonwealth should be able to use the Federal funding to underwrite some of the current costs of PACE and PACENET. The infusion of Federal support means Pennsylvania could consider further expanding PACE and PACENET coverage to even more citizens at a later time.

Yes, Madam President, today is a landmark day for all senior citizens. Today we provide them with needed assistance and ease the financial burden that many face. Today is a culmination of efforts by so many in both Chambers and on both sides of the aisle who worked the practical legislation that enabled the Commonwealth to expand PACE and PACENET without bankrupting the system. The people of Pennsylvania appreciate those efforts, and we thank them for their advocacy over the years. Now it is time that we take the next step and send House Bill No. 888 to the Governor.

Thank you, Madam President.

And the question recurring,
Will the Senate agree to the motion?

The yeas and nays were required by Senator BRIGHTBILL and were as follows, viz:

YEA-49

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Kukovich	Rafferty	White, Donald
Costa	LaValle	Rhoades	White, Mary Jo
Dent	Lemmond	Robbins	Williams, Anthony H.
Earl	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Schwartz	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fumo	Mowery	Stout	
Gordner	Musto	Tartaglione	
Greenleaf	O'Pake	Thompson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

CALENDAR

THIRD CONSIDERATION CALENDAR

BILL ON THIRD CONSIDERATION
REREPORTED FROM COMMITTEE AS
AMENDED, AMENDED

SB 940 (Pr. No. 1290) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for intergovernmental cooperation in cities of the second class; establishing an intergovernmental authority; providing for

financing, for bankruptcy and for sovereign immunity; and making an appropriation.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

RECONSIDERATION OF SB 940

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Madam President, I move to reconsider the vote by which the bill was agreed to on third consideration.

The motion was agreed to by voice vote.

And the question recurring,

Will the Senate agree to the bill on third consideration?

Senator FERLO offered the following amendment No. A4356:

Amend Sec. 203, page 19, by inserting between lines 12 and 13:
(xxx) Reviewing the taxing authority of the city as compared with the taxing authority of school districts of the first class A.

Amend Sec. 203, page 19, line 15, by inserting after "stability.":
The authority shall submit a preliminary report of the recommendations to the Governor and the General Assembly within 90 days of the effective date of this act.

On the question,

Will the Senate agree to the amendment?

It was agreed to.

Without objection, the bill, as amended, was passed over in its order at the request of Senator BRIGHTBILL.

BILLS OVER IN ORDER

HB 88 and SB 763 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

SECOND CONSIDERATION CALENDAR

BILLS OVER IN ORDER

HB 545 and HB 857 -- Without objection, the bills were passed over in their order at the request of Senator BRIGHTBILL.

BILL ON SECOND CONSIDERATION

SB 965 (Pr. No. 1271) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code, further providing for definitions, for when sales may be made at Pennsylvania Liquor Stores, for sales by Pennsylvania Liquor Stores, for authority to issue liquor licenses to hotels, restaurants and clubs, for issuance of hotel, restaurant and club liquor licenses, for

secondary service area, for malt and brewed beverages manufacturers', distributors' and importing distributors' licenses, for malt and brewed beverages retail licenses, for prohibitions against the grant of licenses, for renewal of licenses, for temporary provisions for licensees in armed service, unlawful acts relative to liquor, malt and brewed beverages and licensees, for prohibitions against the grant of licenses and for limited wineries.

Considered the second time and agreed to,

Ordered, To be printed on the Calendar for third consideration.

BILL OVER IN ORDER

HB 1000 -- Without objection, the bill was passed over in its order at the request of Senator BRIGHTBILL.

COMMUNICATION FROM THE GOVERNOR TAKEN FROM THE TABLE

Senator ROBBINS called from the table communication from His Excellency, the Governor of the Commonwealth, recalling the following nomination, which was read by the Clerk as follows:

MEMBER OF THE COMMONWEALTH OF PENNSYLVANIA COUNCIL ON THE ARTS

November 25, 2003

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated July 9, 2003, for the appointment of Lillian Gaskins-Green, 1327 Betsy Ross Place, Philadelphia 19122, Philadelphia County, First Senatorial District, as a member of the Commonwealth of Pennsylvania Council on the Arts, to serve until July 1, 2006, and until her successor is appointed and qualified, vice Marian Barford, Doylestown, whose term expired.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

NOMINATION RETURNED TO THE GOVERNOR

Senator ROBBINS. Madam President, I move that the nomination just read by the Clerk be returned to His Excellency, the Governor.

A voice vote having been taken, the question was determined in the affirmative.

The PRESIDENT. The nomination will be returned to the Governor.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, at this time I ask for a real short caucus of the Republicans in the Rules room at the rear of the Chamber. We expect the caucus to not be more than 10 minutes, and we expect to be back at that time.

For the Members' information, we have two Supplemental Calendars to come, and we hope to have the one ready very soon and the other one will take a little longer, which is the result of the amendment that was just offered.

The PRESIDENT. Senator Brightbill requests a recess for a brief Republican caucus.

The Chair recognizes the gentleman from Philadelphia, Senator Fumo.

Senator FUMO. Madam President, we request a 5-minute caucus, just to outdo the Republicans, in our illustrious, well-appointed caucus room at the rear of the Chamber immediately.

Senator BRIGHTBILL. Madam President, they can then have two caucuses while we are having our 10-minute caucus.

Senator FUMO. We might consider that.

The PRESIDENT. Senator Fumo requests a 5-minute caucus. Without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

HOUSE MESSAGE

SENATE BILL RETURNED WITH AMENDMENTS

The Clerk of the House of Representatives returned to the Senate SB 68, with the information the House has passed the same with amendments in which the concurrence of the Senate is requested.

MOTION TO SUSPEND RULE XIV

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, I move to suspend Rule XIV to the extent that it requires that Senate Bill No. 68 be referred to the Committee on Rules and Executive Nominations and that Senate Bill No. 68 be placed on the Calendar.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator BRIGHTBILL and were as follows, viz:

YEA-49

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Kukovich	Rafferty	White, Donald
Costa	LaValle	Rhoades	White, Mary Jo
Dent	Lemmond	Robbins	Williams, Anthony H.
Earll	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Schwartz	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fumo	Mowery	Stout	
Gordner	Musto	Tartaglione	
Greenleaf	O'Pake	Thompson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. Senate Bill No. 68 will be placed on the Calendar.

**SPECIAL ORDER OF BUSINESS
SUPPLEMENTAL CALENDAR No. 2**

SENATE CONCURS IN HOUSE AMENDMENTS

SB 68 (Pr. No. 1223) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for the capital budget for the fiscal year 2003-2004.

On the question,

Will the Senate concur in the amendments made by the House to Senate Bill No. 68?

Senator BRIGHTBILL. Madam President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 68.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator BRIGHTBILL and were as follows, viz:

YEA-49

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Kukovich	Rafferty	White, Donald
Costa	LaValle	Rhoades	White, Mary Jo
Dent	Lemmond	Robbins	Williams, Anthony H.
Earll	Logan	Scarnati	Williams, Constance
Erickson	Madigan	Schwartz	Wonderling
Ferlo	Mellow	Stack	Wozniak
Fumo	Mowery	Stout	
Gordner	Musto	Tartaglione	
Greenleaf	O'Pake	Thompson	

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

**UNFINISHED BUSINESS
CONGRATULATORY RESOLUTIONS**

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Congratulations of the Senate were extended to Mr. and Mrs. Joseph Jakob, Mr. and Mrs. William Danner, Mr. and Mrs. G. Carroll Lindsay, Mr. and Mrs. Clyde Fellenbaum, Mr. and Mrs. Carl J. Pearl, Mr. and Mrs. Clifton Tracy, Craig Miller, Daniel

Patrick Zanghi, David Allen Lambert, Jacob Farneth and to the Knights of Columbus, Lancaster Council No. 867, by Senator Armstrong.

Congratulations of the Senate were extended to Reverend Richard Baskwill, Dr. Paul Shoemaker, Charles M. Sandwick, Jr., Richard Smith, Joseph DeThomas, Aralee Dorough Gatwood, Rodney B. Heard, Duane Miller, Martha Heard VanEtten, Alicia Miller Karner, Samuel Shiroff, Louis Guida, Christopher A. Due, Jack Phelps and to Ralph Erdman by Senator Boscola.

Congratulations of the Senate were extended to Jonathan Barrett by Senator Brightbill.

Congratulations of the Senate were extended to Robert E. Cosner by Senator Conti.

Congratulations of the Senate were extended to Ernest L. Bergman and to Dorothy E. Schmidt by Senator Corman.

Congratulations of the Senate were extended to Antonio Acri by Senator Costa.

Congratulations of the Senate were extended to Jonathan Erb, Cora Moyer, John Raymond Rogers and to Gabriel Hi-Tech, Inc., of Allentown, by Senator Dent.

Congratulations of the Senate were extended to Luis A. Ramos, Elsa Vazquez, Etius Coleman and to Alejandrino Trujillo by Senators Dent and Boscola.

Congratulations of the Senate were extended to Jason Czerwinski by Senator Earll.

Congratulations of the Senate were extended to William McCaffery, Jr., Victor J. Orlando and to Howard R. Flaxman by Senator Erickson.

Congratulations of the Senate were extended to the Macedonia Baptist Church of Duquesne by Senator Ferlo.

Congratulations of the Senate were extended to Mr. and Mrs. Andress Boyd Derby, Dr. George W. Leighow, Dustin A. Weaver, James Michael Zaktansky, Christopher David Long, Tyler Patrick Schooley, Lance Andrew Mabus, Brock Adam Solomon, Eric Douglas Rubenstein, Jeremy Kazio, James Christian Schlotterbeck, 25-year members of Defender Fire Company No. 3 of Berwick and to Defender Fire Company No. 3 of Berwick by Senator Gordner.

Congratulations of the Senate were extended to Mr. and Mrs. Roland Clayton, Daniel C. Harkins, Horsham Township Police Department, Southampton Estates and to the Southampton Business & Professional Association by Senator Greenleaf.

Congratulations of the Senate were extended to Reverend Robert H. Paul and to Robert E. Tremain by Senator Hughes.

Congratulations of the Senate were extended to Mr. and Mrs. Richard Fluke and to Mr. and Mrs. Charles Miller by Senator Jubelirer.

Congratulations of the Senate were extended to Nicholas Griffey, Robert Bunch, Max Aron Mendelsohn, Dr. Kenneth R. Melanie, James Dickhans, Samantha Howard, Baldwin-Whitehall High School Girls' Varsity Volleyball Team, Sewickley Academy Girls' Varsity Soccer Team, South Fayette High School Boys' Golf Team of McDonald and to the Moon Area High School Boys' Varsity Soccer Team by Senator Jubelirer on behalf of Senator Pippy.

Congratulations of the Senate were extended to Jessica Wisseman and to Holly Sines by Senator Kasunic.

Congratulations of the Senate were extended to Mark Howard, Thomas J. Nestel III, Jacob Williams, Brian Lorenzo, Charles Taylor, Joe Wolk, William Postowski, Robert Kilmer, John Speiser, Manuel Perez, John Allen, Ubi Baldomero, Michael Campbell, David Novak, Tyric Armstead, Harvey Davis, Joe Jonas, Ralph Lewis, James Trainor, Frank Flynn, William Devine, Jerry Green, Seth Bluestein, North Central Victim Services of Philadelphia and to the first generation of Dyin Allahabaraka Ta'ala Alislaamin in America by Senator Kitchen.

Congratulations of the Senate were extended to Samuel L. Evans by Senator Kitchen and others.

Congratulations of the Senate were extended to the Youngwood Volunteer Hose Company No. 1 by Senator Kukovich.

Congratulations of the Senate were extended to William A. Steel by Senator LaValle.

Congratulations of the Senate were extended to Mr. and Mrs. James Slapinski, Scott A. Fry, Justin Henigan and to the Crestwood High School Girls' Field Hockey Team of Mountain Top by Senator Lemmond.

Congratulations of the Senate were extended to Mr. and Mrs. Floyd Heim, Mr. and Mrs. Edward Bailey, Mr. and Mrs. William Boyd, Mr. and Mrs. Joseph Mint, Mr. and Mrs. Ben Comfort, Jr., Mr. and Mrs. Joseph Onofre, Mr. and Mrs. Robert Waltz, Mr. and Mrs. Gordon Phillips and to Harold F. Gardner by Senator Madigan.

Congratulations of the Senate were extended to Anthony Bonadio by Senators Mellow and Musto.

Congratulations of the Senate were extended to Mr. and Mrs. Robert N. Striewig, Earl R. Keller, Nancy A. Besch, Kim E. Higgins and to Dorothy Mukalian by Senator Mowery.

Congratulations of the Senate were extended to Mr. and Mrs. William Panaway, Frank Raynock and to Lorraine A. Cerasuola by Senator Musto.

Congratulations of the Senate were extended to Edward A. Vnuk by Senators Musto and Lemmond.

Congratulations of the Senate were extended to James Bostic by Senator O'Pake.

Congratulations of the Senate were extended to Lee Baierl, Alex Hanner, Joseph Peterson, Pine-Richland Dance Team and to the Church of Jesus Christ of Latter-Day Saints of Cranberry Township by Senator Orie.

Congratulations of the Senate were extended to Selena Bernice Williams Watson, Samuel A. Reed and to Ronald W. Mellott by Senator Piccola.

Congratulations of the Senate were extended to Stephen Perry by Senator Pileggi.

Congratulations of the Senate were extended to Dr. W. Clinton Pettus by Senators Pileggi and Erickson.

Congratulations of the Senate were extended to the Owen J. Roberts High School Girls' Soccer Team of Pottstown by Senator Rafferty.

Congratulations of the Senate were extended to Michael D. Marino by Senator Rafferty and others.

Congratulations of the Senate were extended to the Dietrich family by Senators Rhoades and Boscola.

Congratulations of the Senate were extended to Jack Andre Marti II and to Russell S. Nickel by Senator Robbins.

Congratulations of the Senate were extended to Mr. and Mrs. Raymond Butters by Senator Scarnati.

Congratulations of the Senate were extended to Carl McLaughlin and to Stella Mikolajewski by Senator Stack.

Congratulations of the Senate were extended to Mr. and Mrs. John Dupesko, Mr. and Mrs. Jack V. Dolan, Mr. and Mrs. John L. Northrop, Robert M. Umstead and to Patrice J. Pique by Senator Stout.

Congratulations of the Senate were extended to Courtney Wallace and to Greater Philadelphia Health Action, Inc., by Senator Tartaglione.

Congratulations of the Senate were extended to Geraldine Madden by Senator Thompson.

Congratulations of the Senate were extended to Gregory J. Cox and to the Bensalem High School Marching Band by Senator Tomlinson.

Congratulations of the Senate were extended to Mr. and Mrs. Logan D. Branthoover, Mr. and Mrs. Gerald Libengood, Ovie Nieport, Lucas Kasubick and to Bess Higgins by Senator D. White.

Congratulations of the Senate were extended to Mr. and Mrs. Cecil Gourley by Senator M.J. White.

Congratulations of the Senate were extended to Arnold Foster, Earl Sullivan, Jr., Dr. Karin C. Bivins, Dr. Charles L. Blockson, Jimmie Wayne Moore, Mary Taylor, Walter Jackson, Mamie Nichols and to Eugene Bivins by Senator A.H. Williams.

Congratulations of the Senate were extended to Dr. Stanley and Joan Steinberg, Jason L. Bernett, Sean Bronson, Stephen John Fisher, Carl Engel and to Boy Scout Troop 140 of Conshohocken by Senator C. Williams.

Congratulations of the Senate were extended to Dustin Yenser by Senator Wonderling.

Congratulations of the Senate were extended to Mr. and Mrs. Daniel A. Kresko, Mr. and Mrs. Paul White, Mr. and Mrs. Samuel Paonessa and to Mr. and Mrs. Dwight Weaver by Senator Wozniak.

CONDOLENCE RESOLUTIONS

The PRESIDENT laid before the Senate the following resolutions, which were read, considered, and adopted by voice vote:

Condolences of the Senate were extended to the family of the late Maryam Muhammad by Senator Kitchen.

Condolences of the Senate were extended to the family of the late Carl Lawhead, to the family of the late John W. Rose and to the family of the late Francesco Gullo by Senator Orié.

SENATE RESOLUTION ADOPTED

Senators DENT, PICCOLA, BOSCOLA, TOMLINSON, WONDERLING, LEMMOND and MUSTO, by unanimous consent, offered **Senate Resolution No. 185**, entitled:

A Resolution commending PPL Operation HELP and its contributors for providing financial assistance that has enabled 50,000 low-income households in eastern and central Pennsylvania to pay winter heating bills over the last 20 years.

On the question,
Will the Senate agree to the resolution?

The PRESIDENT. The Chair recognizes the gentleman from Lehigh, Senator Dent.

Senator DENT. Madam President, this resolution commends PPL Operation HELP for 20 years of service providing low-income energy assistance to more than 50,000 people throughout Pennsylvania. Anyone who would like to join as a cosponsor, it will be with the Secretary of the Senate.

And the question recurring.
Will the Senate agree to the motion?

A voice vote having been taken, the question was determined in the affirmative.

BILLS ON FIRST CONSIDERATION

Senator C. WILLIAMS. Madam President, I move that the Senate do now proceed to consideration of all bills reported from committees for the first time at today's Session.

The motion was agreed to.

The bills were as follows:

SB 876, SB 970, HB 999 and HB 1785.

And said bills having been considered for the first time,
Ordered, To be printed on the Calendar for second consideration.

SPECIAL ORDER OF BUSINESS SUPPLEMENTAL CALENDAR No. 3

BILL REREPORTED FROM COMMITTEE AS AMENDED ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 940 (Pr. No. 1297) -- The Senate proceeded to consideration of the bill, entitled:

An Act providing for intergovernmental cooperation in cities of the second class; establishing an intergovernmental authority; providing for financing, for bankruptcy and for sovereign immunity; and making an appropriation.

Considered the third time and agreed to,
And the amendments made thereto having been printed as required by the Constitution,

On the question,
Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Madam President, I would like to submit my remarks for the record, please.

The PRESIDENT. Without objection, the remarks will be made a part of the record.

(The following prepared remarks were made a part of the record at the request of the gentlewoman from Allegheny, Senator ORIE:)

Senate Bill No. 940 results from strong bipartisan support in this hallowed hall, and I rise today to speak on it, because the city of Pittsburgh is a vital asset to both my district and the southwestern region of the Commonwealth. I want to see a thriving city as much as anyone else.

Although many of my constituents work in the city, I did seek to get involved in city affairs. However, when the mayor came to Harrisburg claiming a fiscal crisis and proposed to seek higher taxes on my constituents, I was compelled to investigate and get involved.

As with any other public policy problem we as legislators face, we must first determine the cause of the problem and then design legislation to address that cause.

We were initially told that the city had fiscal problems due to a declining population and declining tax base. Indeed, these are real problems experienced by many municipalities in the Commonwealth, and Senator Logan has rightfully raised this issue on many occasions. I think it is safe to say that we all recognize that our local tax system is archaic and fraught with problems that we in the General Assembly should address. Many, including the city, continue to argue that in light of a declining population and tax base, that new taxes are needed on commuters and businesses for "fairness" reasons.

While I think that the fairness argument can go both ways when you consider the great deal of benefits that commuters and businesses bring to a city, this argument does not answer the question of what has caused the city of Pittsburgh to be in the financial condition it finds itself in.

As I looked closer, I found that between 1984 and 2002, population in the city declined almost 20 percent. Yet, total revenues increased 73 percent and total expenditures increased 72 percent, both more than inflation over that time period (according to the Allegheny Institute).

In October 1996, the Competitive Pittsburgh Task Force cited a decrease in fire risk in recent years, due to improved building codes, sprinklers, and smoke detectors, resulting in a 76-percent reduction in structure fires in the previous two decades. Yet, no reductions were made in fire protection costs.

In order to keep the rates for water customers in these neighborhoods at the same rate as other water customers in the city, the city pays subsidies to those customers who use a private water company. At the same time, there are reports that the water plant is only being used at one-third of its capacity.

Public safety spending rose from \$76 million to \$199 million, an astonishing \$123 million, or 162 percent above the 1984 amount.

The city of Pittsburgh benefitted tremendously as a result of the 1-percent RAD sales tax, receiving over \$145 million since its enactment. The monies from the RAD tax were clearly intended for recreational and cultural assets. However, the city has used them to fund residential and business projects.

According to a survey by the Pittsburgh Tribune-Review, Pittsburgh's use of municipal bonds is exceptionally high compared with that of other cities.

As a result of these and other findings, I believe that it is not clear that the problems with the city's finances are directly caused by the lack of taxing authority. Rather, the more direct causes appear to result from a combination of city practices, including, among other things:

The failure to adjust the structures and services of the city to reflect changes in its demographics, unsuccessful economic development policies, policies which increase the amount of tax exempt land in the city, the city's use of tax increment financing and its debt and loan practices, the diversion of RAD tax revenues received, and the failure to make changes recommended over the last decade which could have saved the city hundreds of millions of dollars over the last 7 years, among other things.

That the cause of the city's fiscal condition is not the result of inadequate revenues is especially true in light of the fact that the city has existing tax authority which it has chosen not to exercise and holds a very large number of assets, many of which are tax exempt parcels of property. Indeed, just yesterday, bills were introduced in city council that could allow the city to generate as much as \$120 million annually.

I firmly believe that our fundamental obligation to the taxpayers is to get our government's house in order before asking them to pay more for it. It is the intent of Senate Bill No. 940 to do this by comprehensively addressing all of the practices and institutions which make up the financial structure of the city of Pittsburgh. Clearly, the fiscal matters of the city extend from the operation of the office of the mayor and city council to each department, bureau, and authority connected to the city. Any related entity which lends money, borrows money, spends money, holds tax exempt property, and receives or transfers employees, money or assets must be a part of the equation.

For this reason, Senate Bill No. 940 establishes a strong fiscal oversight board comprised of finance and municipal government experts, to be known as the Intergovernmental Cooperation Authority. This fiscal oversight board will be empowered to address the city's fiscal issues in a holistic manner, to include budgetary practices and every component of the city's governmental structure.

As I noted before, Senate Bill No. 940 results from a strong bipartisan effort in this Chamber. The measure is supported by both the outgoing and the incoming Allegheny County executives, one a Republican and one a Democrat. It is also supported by the public, as indicated by the recent Pennsylvania poll and a KQV radio poll. Both polls indicated strong opposition to increased taxes and support for a fiscal oversight authority.

I believe Senate Bill No. 940 is the prudent approach to the issue. I believe that it is the approach that the taxpayers in my region have a right to expect. Therefore, for all of these reasons, I urge an affirmative vote for its passage.

Thank you, Madam President.

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Costa.

Senator COSTA. Madam President, I request the remarks that I made in Petitions and Remonstrances on Wednesday, November 19, be made a part of the record.

Thank you.

The PRESIDENT. Without objection, the remarks will be incorporated.

(Whereupon, the remarks of Senator COSTA in Petitions and Remonstrances from the Senate Journal of Wednesday, November 19, 2003, were incorporated by reference.)

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Wagner.

Senator WAGNER. Madam President, I am making a similar request that my remarks from Wednesday, November 19, be a part of today's record.

The PRESIDENT. Without objection, the remarks will be incorporated.

(Whereupon, the remarks of Senator WAGNER in Petitions and Remonstrances from the Senate Journal of Wednesday, November 19, 2003, were incorporated by reference.)

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Logan.

Senator LOGAN. Madam President, as with Senator Costa and Senator Wagner, I request that my remarks under Petitions and Remonstrances on Wednesday, November 19, be applied today.

The PRESIDENT. Without objection, the remarks will be incorporated.

(Whereupon, the remarks of Senator LOGAN in Petitions and Remonstrances from the Senate Journal of Wednesday, November 19, 2003, were incorporated by reference.)

The PRESIDENT. The Chair recognizes the gentleman from Allegheny, Senator Ferlo.

Senator FERLO. Happy Thanksgiving.

And the question recurring,
Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-41

Armstrong	Hughes	Orie	Tomlinson
Boscola	Jubelirer	Piccola	Wagner
Brightbill	Kasunic	Pileggi	Waugh
Conti	Kitchen	Punt	Wenger
Corman	Lemmond	Rafferty	White, Donald
Dent	Logan	Rhoades	White, Mary Jo
Earl	Madigan	Robbins	Williams, Anthony H.
Erickson	Mellow	Scarnati	Wonderling
Ferlo	Mowery	Stout	
Gordner	Musto	Tartaglione	
Greenleaf	O'Pake	Thompson	

NAY-8

Costa	Kukovich	Schwartz	Williams, Constance
Fumo	LaValle	Stack	Wozniak

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate present said bill to the House of Representatives for concurrence.

BILLS SIGNED

The PRESIDENT (Lieutenant Governor Catherine Baker Knoll) in the presence of the Senate signed the following bills:

SB 68, HB 888 and HB 1854.

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Lebanon, Senator Brightbill.

Senator BRIGHTBILL. Madam President, at this time I move that the Senate recess to the call of the President pro tempore. The expectation is that we will have no further votes until December 8, 2003.

The PRESIDENT. Without objection, the Senate stands in recess to the call of the President pro tempore.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

ADJOURNMENT

The PRESIDENT. The Chair recognizes the gentleman from Dauphin, Senator Piccola.

Senator PICCOLA. Madam President, I move that the Senate do now adjourn until Monday, December 8, 2003, at 2 p.m., Eastern Standard Time.

The motion was agreed to by voice vote.

The Senate adjourned at 11:59 p.m., Eastern Standard Time.